

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

MINUTES

February 4, 2016

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 4, 2016 at 1:30 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Carol Neugent, Chair; David Dennis, Vice Chair; John Dailey; Bob Dool; Bill Ellison; David Foster; John McKay Jr. (Out @2:45 p.m.); Lowell Richardson; John Todd and Chuck Warren. Matt Goolsby; Joe Johnson; Debra Miller Stevens; and Bill Ramsey were absent. Staff members present were: Dale Miller, Director; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Jeff Vanzandt, Assistant City Attorney; Justin Waggoner, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no minutes for approval.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00045: One-Step Final Plat - HIEGER EAST 2ND ADDITION**, located east of 247th Street West, on the North side of 61st Street North (COUNTY)

CHAIR NEUGENT announced that the case was deferred indefinitely.

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- 2-2. **SUB2016-00001: One-Step Final Plat – LIGHTHOUSE ADDITION**, located on the West side of Hoover Road, North of 21st Street North.

NOTE: This is an unplatted site located within the City of Wichita. The applicant requests a zone change (ZON2016-00001) from Single-Family Residential (SF-5) and Limited Commercial (LC) to Limited Industrial (LI).

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises the applicant needs to extend sewer to serve both lots (laterals). Water is available to both lots. In-lieu-of-assessment fees are due (transmission and distribution).
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes two access openings along Hoover.
- E. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.

- F. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- G. This property is within a zone identified by the City Engineer's office as likely to have groundwater at some or all times within ten feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineer's office.
- H. Approval of this plat will require a waiver of the lot depth-to-width ratio of the Subdivision Regulations. The Subdivision Regulations state that the maximum depth of all non-residential lots shall not exceed three times the width. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- I. The total dimensions of the access controls should coincide with the lot frontage.
- J. Stormwater should be spelled as one word.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **TODD** seconded the motion, and it carried (10-0).

2-3. SUB2016-00002: One-Step Final Plat – FONTANA 5TH ADDITION, located North of 29th Street North, on the east side of 119th Street West.

NOTE: This is a replat of a portion of the Fontana 4th Addition. The street right-of-way width of Judith has been reduced and the depths of lots adjoining reserves have been reduced.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises the applicant needs to extend water to serve all lots (transmission and distribution). The applicant needs to extend sewer to serve all lots (laterals). Special assessments will be recalculated on a square foot basis unless a Respread Agreement is filed with the Finance Department and approved by the Law Department.
- B. The platlor's text shall include language that "No signs, light poles, private drainage systems, masonry trash enclosures or other structures shall be located within public utility easements."
- C. The platlor's text shall include language that the drainage and utility easements are hereby granted as indicated for drainage purposes and for the construction and maintenance of all public utilities.
- D. On the final plat, the platlor's text shall note the dedication of the streets to and for the use of the public.

- E. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) along with the corresponding dollar amounts shall be submitted to the Planning Department for recording.
- F. City Stormwater Management has approved the applicant's drainage plan.
- G. Traffic Engineering has approved the street right-of-way. The 58-foot street right-of-way for Judith Street contains 15 single-family lots in Block 3 exceeding the 12-lot limit. The Subdivision Committee recommends a modification of the design criteria in Article 7 of the Subdivision Regulations as it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.
- H. The Applicant shall guarantee the paving of the proposed streets. In accordance with the Subdivision Regulations, the cul-de-sacs must meet the minimum 35-foot paved radius requirement. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- I. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves for that Addition, but not being replatted by this Addition, a restrictive covenant shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a restrictive covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- L. GIS needs to verify the street name of "Westlakes Cir".
- M. City Environmental Health Division advises that any wells installed on the property for irrigation purposes will have to be properly permitted, installed and inspected.
- N. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to tricia.robello@sedgwick.gov and nstrahl@wichita.gov.
- O. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.

- P. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Q. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- R. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- S. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- T. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- U. Perimeter closure computations shall be submitted with the final plat tracing.
- V. Sedgwick County Electric Cooperative Association has requested additional easements. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- W. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **TODD** seconded the motion, and it carried (10-0).

3. **PUBLIC HEARING – VACATION ITEMS**

- 3-1. **VAC2015-00063: City request to vacate a platted utility easement**, generally located west of 159th Street East, south of Central Avenue, on the east side of Timber Ridge Circle.

OWNER/APPLICANT/: Charles R Green Revocable Trust, c/o Charles R and Shelly R Green (owner/applicant)

LEGAL DESCRIPTION: Generally described as vacating the west 9 feet of the platted 20-foot (x) 75.5-foot long drainage-utility easement running parallel to the east property line of Lot 12, excluding the north 5 feet, Woodlawn Place Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of 159th Street East, south of Central Avenue, on the east side of Timberridge Circle (WCC II)

REASON FOR REQUEST: Wanting to build a pool

CURRENT ZONING: The site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential.

The applicant is requesting the vacation of the west 9 feet of the platted 20-foot (x) 75.5-foot long drainage-utility easement running parallel to the east, rear property line of Lot 12, excluding the north 5 feet, Woodlawn Place Addition. Water is located in the Timberridge Circle right-of-way. Sewer is located in a platted 20-foot wide sewer easement running parallel to the west, front property line of the subject site. There appears to be no public utilities located in the subject utility easement. There is a platted 20-foot utility easement abutting the east, rear side of the site located on Lot 6, Block 1, Belle Terre Addition; there appears to be no public utilities located in this easement. The applicant has been given direction by Westar for construction of the pool; Westar has equipment in the east 10-feet of the subject easement. AT&T has equipment in the east 11 feet of the subject easement. The applicant has made an application for an administrative adjustment to reduce the SF-5 Single-Family Residential (SF-5) zoned site's 20-foot rear setback to 11 feet. The Woodlawn Place Addition was recorded July 23, 1996.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted drainage-utility easement.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the drainage-utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 14, 2016, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by vacating the described portion of the drainage-utility easement and that the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) As needed provide letters/comments from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (2) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.
- (3) Provide a drainage plan for review to Stormwater. The approved drainage plan must be confirmed by Stormwater to Planning prior to the request going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) As needed provide letters/comments from franchised utility representatives stating that their utilities are protected by the appropriate easements. These must be provided to Planning prior to the case going to the City Council for final action.
- (2) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the City Council for final action.

- (3) Provide a drainage plan for review to Stormwater. The approved drainage plan must be confirmed by Stormwater to Planning prior to the request going to City Council for final action.
- (4) All improvements shall be according to City Standards and at the applicants' expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **TODD** seconded the motion, and it carried (10-0).

PUBLIC HEARINGS

4. **Case No.: ZON2015-00052 (Deferred from 1-21-16)** - Paul D. & Virginia M. Treadwell; R. Brandon Wilson; H. Wayne & Glenda R. Foster and Robert & Jeanneane M. Hall (owners/applicants) and MKEC, c/o Brian Lindebak (agent) request a City a zone change from SF-5 Single-family Residential and GC General Commercial to LI Limited Industrial on property described as:

The West half of the Northeast Quarter of the Northeast Quarter EXCEPT the North 600 feet, all in Section 28, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

The South 49.34 feet of the North 600 feet of the West half of the Northeast Quarter of the Northeast Quarter, all in Section 28, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LI Limited Industrial (LI) zoning on the 11.21-acre, unplatted SF-5 Single-Family Residential (SF-5) and GC General Commercial (GC) site. The site is located a block west of Greenwich Road, abuts the north side of I-35 on the northwest side of the Gilbert and Trig Streets intersection. Kellogg Avenue/US-54 is located approximately 380 feet north of the site. The site is currently an overgrown field.

A large GC zoned drainage easement abuts the north side of the site. The current improvements to Kellogg/US-54 will remove the north, adjacent GC zoned western clothing store. GC zoned undeveloped land and what appears to be unimproved parking abut the west side of the site. GC zoned Nissan and Mazda car sales lots are located further west. Six SF-5 zoned single-family residences (built 1954 and early 1970s) are located east, across Trig Street, of the site, as is a GC zoned single-family residence (built 1954) and undeveloped GC zoned land. A GC zoned Green Lantern car wash,

undeveloped GC zoned land, a LC Limited Commercial (LC) zoned small commercial strip building, and SF-5 zoned cleared lots and two single-family residences are located a short block east of the site, along the east side of Greenwich Road. The noted SF-5 zoned single-family residences in area are the remnants of 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.

The closest LI zoned properties to the site are located east of the site, across Greenwich Road., approximately 740 feet east of the site. The LI zoned properties have covenant COV-6 and community plan CUP DP-196 overlays, which have provisions for uses, screening, outdoor storage, signs, lighting, building height, landscaping, etc.

CASE HISTORY: The site is undeveloped and based on historical aerials appears to have been undeveloped since the 1970s.

ADJACENT ZONING AND LAND USE:

NORTH:	GC, Kellogg/US-54	Western clothes store, drainage easement, land cleared for improvements to Kellogg/US-54
SOUTH:	I-35, SF-5	Interstate Highway I-35, single-family residences
EAST:	SF-5, GC, LC S	Single-family residences, undeveloped land, retail strip building, car wash
WEST:	GC	Undeveloped land, car sales

PUBLIC SERVICES: Public water and sewer are located in the Trig Street right-of-way. Access to the site is currently provided by the local, sand and gravel residential Trig Street. Access to the arterial Greenwich Road is via Trig Street to the sand and gravel Gilbert Street. Direct full movement access to the arterial Kellogg/US-54 is via Trig Street. Improvements to the Kellogg/US-54 will provide access to the Kellogg/US-54 frontage road, which in turn will provide access to the east Kellogg/US-54-Greenwich Road intersection and west along the frontage road.

CONFORMANCE TO PLANS/POLICIES: The “2035 Wichita Growth Concept Map” of the Comprehensive Plan identifies the general location as appropriate for “new employment” development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials like will be developed.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification.

RECOMMENDATION: Applying provisions of a protective overlay to the request for LI zoning will allow the applicants the opportunity for commercial development on the site as well as eliminating some of the industrial uses permitted by right that are out of character with the existing development in the area, most which has occurred since 2000 and has been anchored by the big box stores Wal-Mart and Lowes. Based upon information available prior to the public hearings, planning staff recommends that the proposed conditional use be APPROVED, subject to platting within a year and the following provisions of a protective overlay:

- 1) The following uses are prohibited: correctional facility, correctional placement residence, nightclub in the city, pawn shop, private and public recycling collection stations, recycling processing center, reverse vending machine, rodeo in the city, sexually oriented business, tattooing and body piercing facility, tavern or drinking establishment, asphalt or concrete plant, vehicle storage yard, landfill, mining or quarrying, oil and gas drilling, rock crushing, solid waste incinerator, transfer station, wrecking/salvage yard.
- 2) Trig Street will be paved per the City's industrial standards, at the applicant's expense, from the site's entrances to Kellogg/US-54. No vehicular traffic generated from the site will use Trig Street from the site's south-most entrance to Gilbert Street. No vehicular traffic on Greenwich Road going to the site will use Gilbert Street and then Trig Street to get to the site.
- 3) An 8-foot wall will be built along the site's east side, its Trig Street frontage and along its south side where the site abuts I-35. A landscaped berm that equals the wall can be used. All loading, docking areas, and trash receptacles shall be screened from ground level view and along I-35 as approved by the Planning Director.
- 4) All roof top mechanical equipment shall be screened from ground level view per the UZC.
- 5) Landscaping will be per the City of Wichita's Landscape Ordinance, including landscaping along its south side where the site abuts I-35.
- 6) Signage shall be as permitted in the GC zoning district with the following standards. One building sign along I-35. No free standing signs along I-35. One 20-foot tall, 250-square foot free standing monument sign along Kellogg/US-54. Portable and off site signs, including billboards are not permitted. Back lit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- 7) A 35-foot setback along the site's east side. No pole lights allowed in the 35-foot setback.
- 8) All exterior lighting shall be shielded to direct light downward. Pole lights, including the base shall be no taller 15 feet.
- 9) Compatibility height standards shall apply.
- 10) All utilities shall be underground.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the surrounding area:** The area is located along the Kellogg/US-54 corridor and abuts I-35, with access onto Greenwich Road, perhaps the only paved, north-south, county line to county line arterial road in Wichita and Sedgwick County. The area is a mix of GC, LI, and LC zoning, most with development overlays, which have developed into big box stores Wal-Mart and Lowes anchoring stand-alone fast food restaurants,

stand-alone retail and small commercial strip buildings. The area also has at least five major automobile dealerships. The area's nine single-family residences are the remnants of the 18 single-family lots that were platted in the East Kellogg Addition, which was recorded December 23, 1953.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The unplatted 11.21-acres SF-5 zoned site could be developed as single-family residential subdivision. However, the area's development trend is large scale commercial and major auto dealerships, which reflects the area's access to Kellogg/US-54 corridor, the arterial Greenwich Road and the site's visibility from the abutting I-35.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The provisions of the protective overlay are intended to conform the site with the area's commercial development, most of which was established or redeveloped beginning in the early 2000s, as well as the remaining existing single-family residential development.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "2035 Wichita Growth Concept Map" of the Comprehensive Plan identifies the general location as appropriate for "new employment" development. This category encompasses areas likely to be developed or re-developed by 2035 with uses that constitute centers or concentrations of employment primarily in manufacturing, warehousing, distribution, construction, research, technology, business services, or corporate offices. Major shopping centers and office parks are likely to be developed as well, based on market driven factors. Higher density housing and convenience centers are also development possibilities. In areas of existing industrial uses associated with extraction, processing or refinement of natural resources or recycling of waste materials likely will be developed.

The purpose of the LI zoning district is to accommodate moderate intensity manufacturing, industrial, commercial and complementary land uses. The requested LI zoning district can be compatible with the new employment classification.

- (5) **Impact of the proposed development on community facilities:** The site may generate industrial truck traffic onto Trig Street, Kellogg/US-54 and Greenwich Road.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER recused himself from the item and left the bench.

He provided revised conditions (#'s 1-10) as a handout and reviewed each item.

RICHARDSON asked staff to define storage yard.

LONGNECKER said the definition is in the Unified Zoning Code (UZC). He clarified that storage yard allows for storage of recreational vehicles, boats, trailers or cars but all vehicles have to be operable. He said if the vehicles aren't operable it would be considered a wrecking and salvage yard.

RICHARDSON asked how no traffic on Gilbert would be enforced. He said anyone coming from the north or east will have to go all the way to Webb Road and come back on the frontage road in order to use Trig Street. He added or someone could come south on Greenwich Road and turn onto Gilbert.

LONGNECKER said a “no truck traffic” sign could be posted. He said traffic on Gilbert is a public safety issue as it is. He said other than posting a sign he was not sure what could be done.

RICHARDSON said if there is going to be industrial traffic, the street needs to be paved. He said you can’t keep traffic off of Gilbert unless you block the street. He asked about the reference to the lots to the east remaining zoned single-family and asked if the property could be developed across from any of the lots that were rezoned.

LONGNECKER clarified that the intent was if “any” of the lots remain SF-5 Single-family zoning then the prohibition would apply.

RICHARDSON commented then he thinks the language needs to be changed.

LONGNECKER said staff could do that.

ELLISON asked staff to explain again how truck traffic off of Kellogg would get to the site.

LONGNECKER said the trucks could take the frontage road into Trig Street.

RICHARDSON said the frontage road will be one-way like it is all along Kellogg and reiterated that people will have to go clear to Webb Road and circle back.

LONGNECKER said he would check with Public Works because he was not sure of that. He said he did check with Public Works and it was his impression that drivers could use the frontage road and go down to Webb Road and turn around. He said access issues will be addressed at platting which was scheduled to be within four years.

RICHARDSON questioned giving the applicant four years to plat the property instead of the usual year.

LONGNECKER said the extended platting time is to see how traffic along Kellogg settles down after the improvements are made.

MCKAY clarified staff and Commissioner Richardson were talking about the same thing, going to Webb Road and coming back to Trig Street. He asked about fire protection, with only one way in and out of the area.

LONGNECKER said Public Works agreed that Trig Street would be the primary point of access. He said they were not keen about allowing truck traffic onto Gilbert due to the sight restrictions because of the overpass and railings. He said those issues will be sorted out at the platting phase.

BRIAN LINDEBAK, MKEC ENGINEERING, 411 NORTH WEBB ROAD, AGENT FOR THE OWNERS said they have worked with staff diligently to come up with a workable solution because there are some complicated issues on the site. He said the amended language will be beneficial to the single-family homes to the east of the site. In reference to the four year platting extension, he said although it is not a policy yet, there is a policy change coming through channels to change platting requirements to five years as opposed to one year. He said the highway is being developed and there is a lot of turmoil in the area as far as creating access issues. He said they do not know if the site will develop immediately and that is why they are asking for the platting extension. He said he would be happy to answer any questions.

MCKAY asked who owned the property to the north.

LINDEBAK said the City owns the ditch and the former Dandales Western Store location.

MCKAY asked about possible access from the frontage road via the northwest corner of the property to the north.

LINDEBAK stated he didn't know about access along the frontage road.

MCKAY commented that if the ownership was the same access to the property could be via the northwest corner and then they would not have to worry about issues along Trig Street.

LINDEBAK said that may be a plausible solution; however, it was his understanding that there would be no direct access to the frontage road from that location. He said Trig Street will have direct access to the frontage road.

DENNIS asked if construction has started on the site.

LINDEBAK said no construction has started but he understands there is an agreement for some soil to be placed on the property. He said the applicant intends to preserve the east side of the property as it is today.

DENNIS asked if he has seen the photos provided to the Commission.

LINDEBAK said no one has provided those photos to him. He said he has talked to the homeowner across the street to the east who he understands was not happy with the Kellogg expansion project prior to the new owners purchasing the property so they are probably not happy today either.

RICHARDSON said he was at the site yesterday and two big backhoes are working in there not 25 feet from Trig Street.

LINDEBAK commented that the backhoes are taking down some of the trees.

RICHARDSON asked didn't Lindebak just say the applicant was going to leave that area alone.

LINDEBAK reiterated that the applicant indicated they would leave the east edge of the property alone.

RICHARDSON asked how the applicant proposed to keep the industrial traffic on Trig Street and not Gilbert. He asked how they were going to enforce that.

LINDEBAK said the intent was to access the site from the north along Trig Street. He said Gilbert is a public road so he didn't know how they could keep traffic off of it. He said they do not know if they can do anything about that but he understands from conversations with staff that Gilbert is not the most ideal road to access onto Greenwich Road. He said the intent is not to use Gilbert.

RICHARDSON commented that the preference was not to use Gilbert but there is no way to enforce that.

WARREN commented that the City can post weight limit signage on Gilbert so traffic restrictions can be done, but not by the developer. He said the city can then fine anyone who violates the weight limit.

LINDEBAK commented that he understood that the Gilbert and Greenwich Road intersection is being improved as part of the Kellogg expansion project.

RICHARDSON clarified that it was the agent's understanding that zoning on all the houses needs to be changed before any of the other uses kick in.

LINDEBAK responded that was right, they were trying to show some respect to the houses to the east of the location by not allowing certain uses such as signs beyond a certain capacity and adding a landscape buffer. He said they are trying to co-habitate with the neighbors.

KARMEN GIOUX, 640 SOUTH TRIG STREET said she has been in her home 20 years. She referred to pictures of the backhoes knocking down trees and said that started between 6:00 - 7:00 a.m. yesterday morning and they are still at it. In addition, she said there is an ugly plastic fence all along Trig Street, and there has been machinery in and out of the area all day long. She said all summer they dealt with heavy equipment and fully loaded semi-trucks with rock, gravel, etc. approximately four times an hour on their little one lane road. She said none of the neighbors want to see an ugly 8-foot concrete fence when they are used to looking at wildlife so there is no way that this proposal is improving the area. She said the only way out is on Gilbert and you have to pull out into the road because of visibility issues. She said pulling out on Trig Street trying to go north is very dangerous and mentioned numerous accidents and wrecks. She said the neighbors don't want this. She said if they are going to build something, take the whole street including their homes. She said they don't want to be stuck in a commercial bubble, with the turnpike on one side and 54 Highway on the other and all the riffraff that comes into an area with commercial development. She mentioned that crime has increased in the area because of the surrounding development. She said she is sure the applicant knows what they want to build there, but they are not informing the neighbors. She concluded by saying that the neighbors will protest the proposal.

WARREN asked the speaker since she was opposed to the proposed use, what kind of development would she like to see at the location?

GIOUX responded no development if she has to look out her window and see semi-trucks going by on a single lane road or look at an 8-foot ugly concrete wall.

ELLISION asked about development of an apartment complex at the site.

GIOUX asked why they would need industrial zoning to build an apartment complex. She said the property has been for sale for probably 40 plus years.

ELLISON commented that the speaker seems quite passionate about her stance and he is trying to understand where she is coming from. He added that it would also help him to understand what the applicant is trying to develop on the property.

CHAIR NEUGENT suggested Commissioner Ellison pursue that line of questioning with the appropriate people.

BRAIDEN FIENE, 556 SOUTH TRIG STREET said he has put quite a bit of work into his home. He said he has completely rebuilt and remodeled the house, added a shop and put almost \$50,000 into it. He asked how this would benefit him if the appraised value of his house goes down because of commercial property across the street. He asked why the property is being rezoned for LI. He said 90% of the traffic that comes through the neighborhood is not the nine people that live on the street. He added that the average speed is 40-45 miles per hour, which is very dangerous. He said Gilbert dies off at the stop sign into gravel on concrete that is hard to stop on. In addition he said you can't see south to turn onto Greenwich Road. He also mentioned how dangerous it was to try to turn left onto Kellogg. He said when traffic gets backed up, you can sit there for 15 minutes so that is also a major concern. He mentioned that when there is a lot of rain, the water comes up and over the top of Trig Street and onto the Dandales property. He added that outside storage also brings down the value of other properties in the area. He concluded by saying that safety is a big concern and as a homeowner, he would rather have a washboard road than pavement with the speed that people go down Trig Street now.

WARREN asked the speaker since he was opposed to what was being proposed, what kind of development he would like to see.

FIENE said he hasn't thought about it a whole lot, but he would just like to know what is going on. He said there are a lot of gray areas but he can't imagine the traffic if an apartment complex went in there. He said no one is going to want to live across the street.

RICHARDSON asked the speaker how he would feel about the idea of closing Gilbert and turning Trig Street into a cul-de-sac.

FIENE replied if Gilbert were closed, the house on the corner would have no access since they come out onto Gilbert.

LINDEBAK introduced **MIKE BRAND, PROPERTY OWNER** said he might be able to give the Commission some vision about how the property could be developed. He said long-term development is unknown at this point in time. He said most of the concerns seem to be related to existing traffic

generated by the Kellogg project. He said drainage issues will be handled as part of platting process as required. He said they will provide the required screening for any outdoor storage.

MIKE BRAND, 2709 NORTH WILDROSE said to clarify screening along Trig Street; they are not taking down any trees for 25 feet. He said they are scraping the balance of the lot to clean it up. He said they have no future plans and bought the ground under speculation. He said he has some things in his head but no future plans on the thing.

TODD asked why they were requesting LI instead of GC zoning.

BRAND said they didn't know if they would turn the area into an office park or apartments. He said he had no future plans at the present moment.

ELLISON asked about drainage on the property and possible flooding of Trig Street.

LINDEBAK reported that drainage on the property was to the north and east. He said one of the ideas discussed was the possibility of having a catch basin that would release the water at a metered rate. He mentioned that LI zoning does not allow for residential use and he wanted to make that clear. He said they do not feel residential development is a good long range plan. He said zoning is all GC to the north and with the nature of the Kellogg work the area will be redeveloped.

BRAND mentioned that the only building to the north of the area was the Dandales Western Store, he said the rest of the buildings have been taken by the Kellogg project. He mentioned that Sherwood Construction is doing the work on the roadway and they have taken half of the parking lot at the former Dandales location. He also mentioned that the property to the west of them is under contract although it has not closed yet, so there will be a change there too.

LONGNECKER clarified that LI zoning does not allow residential uses.

WARREN asked staff about the possibility of turning Trig Street into a cul-de-sac or is the street too long.

BRIAN KOON, TRAFFIC ENGINEER, PUBLIC WORKS said it is a long street and could probably be a cul-de-sac if it had an appropriate turn around radius. He said it would need a larger turn-around radius in anticipation of the trucks that would be using it.

RICHARDSON clarified that the frontage road would be one way to the east.

KOON said that was correct.

There was considerable discussion concerning possible traffic solutions in the area including installation of a cul-de-sac on Trig Street; closing Gilbert; installation of a street on the west side of the application area; and access to the property from the north, etc.

MCKAY commented that there were a lot of unanswered questions and suggested that the application be deferred. He said because there are so many ifs, ands and buts about the street, he believes the item should be deferred to let the applicant/agent try to work something out. He asked if Trig Street was paved who would pay the special assessments; the other families who live on the street.

BRAND mentioned that they were hoping to build a street along the south end of the property. He said they would pay for the street and hoped the City would continue it to Gilbert so traffic could get away from the neighborhood.

MCKAY said that was a lot of speculation and if the applicant has a plan, he suggested they bring that back to the Commission for review.

LINDEBAK commented that a lot of the loose ends such as access, drainage, and access to utilities and water would be sorted out at the time of platting. He said the Planning Commission will see the item again.

KNEBEL suggested language changes to condition #3 to include “until Trig Street is paved or alternative access is provided”. He said he does not believe the Commission is going to figure out how access is provided until the property is rezoned. He said he does not believe the applicant is going to go to the trouble of coming up with an access plan until the property is rezoned.

DENNIS asked if the item had been to the District Advisory Board (DAB) yet.

LONGNECKER said no, it was scheduled for the following Monday.

TODD commented that the overall scope of this corner is moving towards commercial use. He said he questions LI and thinks GC would be sufficient. He said he spoke with a realtor and was told that GC property is more valuable.

MOTION: To defer the request for 90 days.

MCKAY moved, **TODD** seconded the motion.

CHAIR NEUGENT asked if Commissioner McKay had specific items he wanted to see worked out or a specific time to defer the item to. She said a specific date would be better.

LINDEBAK asked what specifically the Commission wants worked out; access to the site?

MCKAY said paving the south side of the property, paving Trig Street and responsibility for special assessments going to the neighbors to the east.

LINDEBAK commented that those items would be worked out at platting. He said the intent was that the applicant would pay to pave Trig Street to their drive. He said a lot of thing can change in the amount of time it takes to develop the property. He reminded the Commission that the zoning doesn't become effective until the property is platted.

RICHARDSON said another reason to defer this is the Commissioners walk in the door and they are handed the revised conditions as though no one had time to work on this before today. He said his point was the Commission has not had a chance to absorb this and he believes that is a bad policy.

The **MOTION** was **AMENDED** to defer the request for 90 days.

DENNIS requested that the Traffic Engineer provide something solid to make a decision on. He said he would also like to know exactly what the DAB has to say on this issue because he feels that is important input. He said as far as platting in four years, he said half of the Commissioners won't remember what they did here today. He said he supports the motion to defer this request 90 days.

DAILEY said he agreed with Commissioner Dennis and added that he would like to see access directly from the northwest corner out to Kellogg.

WARREN said a lot of the nitty gritty details will happen at the platting process, but some broad strokes about intentions and minimum agreements to address neighborhood concerns are needed. He said when you live across from an open field you would like to see that forever, but that just isn't reality because it will eventually be developed.

TODD said this was an opportunity to visit with the neighbors and said communication is the key.

CHAIR NEUGENT said she wanted to recognize the City Traffic Engineering who was literally pulled away from his desk to try and answer some very off the cuff inquiries. She said she also appreciated that staff is trying to move development requests through in a timely manner. She said this was one of those times she felt they were not ready to do this in a timely manner. She said she is in support of the motion to defer, but after what she has heard today, she will probably not support rezoning of the area to LI.

The **MOTION** to defer the request for 90 days carried (9-0-1). **FOSTER** – Abstained.

MCKAY (Out @2.45 p.m.)

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5. **Case No.: ZON2015-00053** - Leonard Rau (owner) requests a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

The South half of lot 14 EXCEPT the West 498 feet AND EXCEPT the South 33 feet for street; R.A. Morris Tracts Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant requests TF-3 Two-Family Residential (TF-3) zoning on a 0.41-acre platted lot. The site has 132 feet of frontage along West 9th Street North with a single-family house built on the west half of the lot. The applicant intends to split the oversize lot to accommodate a duplex on the eastern half of the site. Both lots will meet Unified Zoning Code (UZO) minimum lot dimensions and sizes, see the attached site plan and lot split document submitted by the applicant.

The surrounding neighborhood is primarily zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. However, over a dozen pockets of TF-3 zoning exist within this neighborhood bordered by 13th Street North, Central Avenue, I-235 and Zoo Boulevard. North of the site on West Edminster Street are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. East of the site are SF-5 zoned single-family residences; three blocks further east are TF-3 zoned duplexes on North Clara Street. West of the site are SF-5 zoned single-family residences, MF-29 Multi-family Residential (MF-29) zoned duplexes within the same block as the application area, and six TF-3 zoned duplexes one block to the west along North Hoover Street.

CASE HISTORY: The site was platted as a portion of Lot 14 of the R.A. Morris Tracts Addition in 1928.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5, TF-3	Single-family residences, duplexes
WEST:	SF-5, TF-3, MF-29	Single-family residences, duplexes

PUBLIC SERVICES: West 9th Street North is a paved, two-lane local street at this location with a 75-foot right-of-way and sidewalks on both sides of the street. All public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in a large urban municipality.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The surrounding neighborhood is primarily zoned SF-5 and developed with single-family residences. A mixture of TF-3 and multi-family zoning exists within surrounding blocks. North of the site on West Edminster Street are SF-5 zoned single-family residences. South of the site are SF-5 zoned single-family residences. East of the site are SF-5 zoned single-family residences; three blocks further east are TF-3 zoned duplexes on North Clara Street. West of the site are SF-5 zoned single-family residences, MF-29 zoned duplexes within the same block as the application area, and six TF-3 zoned duplexes one block to the west along North Hoover Street.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and with a lot split could be developed with an additional single-family residence.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal; duplexes and TF-3 zoning are common within the surrounding blocks. A duplex on the site could be better for the neighborhood than an underutilized lot.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as within the Established Central Area - the mature neighborhoods within an approximate three-mile radius of the downtown core. The Plan encourages infill development within the Established Central Area that maximizes public investment in existing and planned infrastructure and services. The Plan also encourages development of a variety of lot sizes and housing types within the Established Central Area. The Plan's *2035 Wichita Future Growth Concept Map* identifies this location as "residential," encompassing areas that reflect the full diversity of residential development densities and types, including duplexes, typically found in a large urban municipality.
- (5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER asked how the encroachment of the property to the west into the 25-foot setback was going to be dealt with.

LONGNECKER referenced a lot split on the property, but said he was not sure if the encroachment was addressed when that was approved. He said he was presenting the application for another planner. He said that issue could be handled through an administrative adjustment to reduce the side yard setback by 20%.

FOSTER asked how many off street parking spaces were required for the proposed duplexes and if the garage counted as one space.

LONGNECKER said he believed the parking requirement was the same as single-family residential which was two spaces per unit. He asked other Planning staff to verify that.

KNEBEL verified that the requirement was one parking space per unit and added that the garage counted as one.

FOSTER mentioned that the Commission has approved these types of zonings in the past and when he has driven by the locations there is anywhere from 2-4 cars parked in the street.

RICHARDSON asked is there a reason why the entire lot is being rezoned instead of just Parcel B.

LONGNECKER indicated that was what the applicant requested. He said the location of the existing residence could be used for future development of another duplex.

LEONARD RAU, 5204 WEST 9TH STREET, PROPERTY OWNER/APPLICANT said this residence was one of the original homes in the area and that it was built before the street was put in. He said the new development will accommodate the 25-foot front setback.

MOTION: To approve subject to staff recommendation.

WARREN moved, **DOOL** seconded the motion, and it carried (9-0).

- 6. **Case No.: CON2015-00040** - Natalin Perez (owners/applicant) requests a City Conditional Use for Vehicle Sales in LC Limited Commercial zoning on property described as:

Lots 2, 4, 6, 8, 10 and 12, Block 1, Mc Intyre's Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting a Conditional Use to allow car and light truck sales on the LC Limited Commercial (LC) zoned site. Per the Unified Zoning Code (UZC, Sec.III-D.6.x), outdoor vehicle and equipment sales may be permitted after consideration and approval of a Conditional Use on a site by site basis in the LC zoning district. The site is located at the southwest corner of North Arkansas Avenue and West 22nd Street North. The 0.45-acre site has an approximately 2,900-square foot commercial building (built 1959, 1960) occupied by a liquor store. At the time this report was written two semi-trucks with trailers advertising a towing and recovery services were parked on the west side of the site, as was an inoperable small SUV. A van was parked in the grass strip located along the west side of the site.

The area is characterized by LC zoned small local commercial business and older single-family residences located along both sides of Arkansas Avenue. Single-family residential neighborhoods zoned TF-3 Two-Family Residential (TF-3) and SF-5 Single-Family Residential (SF-5) abut or are adjacent to the LC zoning along Arkansas. A LC zoned full service restaurant, El Paisa (built 1958, 2003), is located south of the site, separated by what appears to be unimproved parking. A LC zoned hair salon (built 1950) and an O'Reilley's auto parts store (built 1996) are located south of the restaurant, ending on the north side of West 21st Street North and North Arkansas Avenue. A LC zoned commercial building (built 1930) and LC zoned single-family residences (built 1920, 1930) are located east and southeast of the site, across Arkansas Avenue. A QuikTrip (built 1996) convenience store is located southeast of the site on the north side of West 21st Street North and North Arkansas Avenue. A LC zoned vacant Kentucky Fried Chicken (built 1956) restaurant and a car wash (built 2006) finish out development at the 21st Street – Arkansas Avenue intersection. A LC zoned single-family residence (built 1920) is located north of the site, across 22nd Street. A GC (one of a kind) and LC zoned commercial strip building (built 1958, 1970) and a LC zoned Post Office (built 1970) are located further north. A vacant LC zoned commercial building (built 1925), single-family residences (built 1920) and a church (built 1962) are located northeast, across Arkansas Avenue, from the site. TF-3 zoned single-family residences (built 1930) are located west of the site, across a dirt alley.

There nearest outdoor car sales lots appears to be located on the southeast corner of West 25th Street North and North Arkansas Avenue. This car sales lot used to be a gas station with a two-bay garage for service. There are several dealerships located over three-quarters of mile southeast of the site on at the 16th Street North – Broadway Avenue intersection. One of these sales lots is associated with a Pawn Shop. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The site is currently occupied by a 2,786-square foot liquor store. The applicant's site plan shows 226-square feet of it converted to an office for the car sales.

The applicant's site plan that also shows eight parking spaces for the liquor store, three parking spaces for customers and employees, 10 spaces for the display of the cars for sales, two existing drives onto Arkansas Avenue, an existing drive onto 22nd Street, an existing (pole) sign, an existing parking barrier, a trash receptacle, a grass area, an existing chain link fence and sewer and gas utilities.

CASE HISTORY: The site is platted as Lots 2, 4, 6, 8, 10 and 12, Block 1, Mc Intyre's Addition, which was recorded with the Register of Deeds March 8, 1887. A conditional use for a car sales lot, CU-450, was approved by the MAPC, August 28, 1997. A condition of CU-450 was that the car sales lot would operate for 5-years, after which the property owner could re-apply for an extension of the conditional use. There is no record of a request to extend the operational time of CU-450. The site plan for CU-450 shows the building occupied by an existing liquor store and the proposed car sales office. The CU-450 site plan shows the existing liquor store being smaller than the proposed car sales office. The CU-450 site plan shows 20 display slots for cars as opposed to CON2015-00040's 10 display slots.

ADJACENT ZONING AND LAND USE:

NORTH: LC,GC	Single-family residence, small commercial strip building, post office
SOUTH: LC	Full service restaurant, hair salon, auto parts store, vacant fast food building
EAST: LC	Single-family residences, commercial building, vacant commercial building, convenience store, church
WEST: TF-3	Single-family residences

PUBLIC SERVICES: The subject property has access to Arkansas Avenue, a two-lane arterial street and 22nd Street, a paved two-lane local street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The "2035 Wichita Growth Concept Map" of the Comprehensive Plan identifies the general location as appropriate for "residential" types of use. The site's LC zoning allows a diversity of residential development, but it also allows commercial uses. The site has been used for commercial uses since at least 1997, when CU-450 was applied for, and probably before then considering that (per the Appraisers Office information) the commercial building was built in 1959 and 1960. The UZC allows consideration of outdoor car sales on LC zoned lots as a conditional use on a site by site basis, which this site was approved for with a five-year sunset date beginning in 1997. There is no record of a request to extend the five-year sunset date.

The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. The Locational Guidelines also recommend that high intensity uses should be discouraged from locating in areas of existing lower intensity development. The area does not have an established pattern of outdoor sales uses and the development pattern of the area is pre-dominantly low intensity.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial use in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue, Broadway Avenue or more recently along arterial intersections located in the northeast and northwest parts of the City, all which are more regional in their draw. The nearest car sales lot located at 25th Street and Arkansas Avenue and the other nearest car lots, located around 16th Street North and Broadway Avenue, are more of a local commercial nature. Consideration of a conditional use to allow car sales on a site that is an active retail operation, such as the subject site, is not common. The applicant is not proposing to convert the liquor store (retail) site to a stand-alone car sales lot. The applicant's proposal is out of character for this area, even though the site was approved for a car sales lot for a five-year period, beginning in 1997 and ending in 2002.

The site is located on the north-most edge of the "21st Street North Corridor Plan (Plan)" in effect as of January 2005. The site is located within the Plan's "West Sub-Area." The Plan's 20-year preferred land use map shows the site being single-family residential, which fits with the 2035 Wichita Growth Concept Map's showing the site as residential. The Plan also shows the site as being just outside the "Half-Mile Neighborhood Commercial Core." The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan.

RECOMMENDATION: Development in the area appears to have remained close to what was in place since the 1997 approval of CU-450, with the newest development being the car wash (built 2006) at the 21st Street – Arkansas Avenue arterial intersection. The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan nor the 2035 Wichita Growth Concept Map, therefore based on the information available prior to the public hearing, MAPD staff recommends the application be **DENIED**, based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is characterized by LC zoned small local commercial business and older single-family residences located along both sides of Arkansas Avenue. Single-family residential neighborhoods zoned TF-3 and SF-5 abut or adjacent to the LC zoning along Arkansas. The area is predominantly single-family residential in character.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site is zoned LC, which allows many local oriented commercial businesses, office uses, and a diversity of residential uses by right. The site's existing liquor store, which the UZC considers a retail use, is permitted by right in the LC zoning district.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of CON2015-00040 could encourage the application for more conditional use request for car sales on other properties on this section of Arkansas Avenue that are currently used for commercial/retail uses. The request is out of character with the current local commercial/retail activity, including the site's liquor store, a full service restaurant, small commercial strips, small office, and a hair salon. The most intense commercial activities are located on the 21st Street North and Arkansas Avenue arterial intersection, those being a convenience store and a car wash.
- (4) **Conformance of the requested change to adopted or recognized Plans/Policies:** The site is located on the north-most edge of the "21st Street North Corridor Plan (Plan)" in effect as of January 2005. The site is located within the Plan's "West Sub-Area." The Plan's 20-year preferred land use map shows the site being single-family residential, which fits with the 2035 Wichita Growth Concept Map's showing the site as residential. The Plan also shows the site as being just outside the "Half-Mile Neighborhood Commercial Core." The proposed conditional use for a car sales lot on the site is an expansion of commercial activity on the site, which does not match the 21st Street North Corridor Plan.
- a. The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. The Locational Guidelines also recommend that high intensity uses should be discouraged from locating in areas of existing lower intensity development. The area does not have an established pattern of outdoor sales uses and the development pattern of the area is pre-dominantly low intensity.
 - b. Consideration of a conditional use to allow car sales as on a site that is an active retail operation, such as the subject site, is not common. The applicant is not proposing to convert the liquor store (retail) site to a stand-alone car sales lot. The applicant's proposal is out of character for this area, even though the site was approved for a car sales lot for a five-year period, beginning in 1997 and ending in 2002.
- (5) **Impact on Community Facilities:** All public facilities are available. Existing road facilities are adequate.

However, if the MAPC considers the conditional use request for a car sales lot on this site appropriate, the following conditions are recommended, with the MAPC's findings:

1. The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
2. Because the site has no building for any automotive service or repair work, none shall be conducted on the site. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.

3. All improvements to the property must be finished before car sales is permitted. Those improvements include a six-eight foot wooden fence erected on the west property line of the site, landscaping, per the Landscape Ordinance, planted in the grass area on the west side of the site.
4. No display or parking allowed on the west grass area of the site.
5. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the 22nd Street North and Arkansas Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and landscaping. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons. All other signage will be per the "LC" zoning district.
7. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale must be on a concrete, asphalt or an approved all weather surface.
8. No outdoor amplification system shall be permitted.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 14-feet, including the base, and directed onto the site and away from the residential development north and east of the site.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. No selling of cars and pick-up (light) trucks shall be allowed until all permits have been acquired and all improvements to the site have been made.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

BILL LONGNECKER, Planning Staff presented the Staff Report.

He reported that DAB VI voted to deny the request 6-1 per staff recommendation.

FOSTER asked staff to describe how the 21st Street Corridor Plan impacts this area.

LONGNECKER reiterated that the 20 year land use map and 2035 Wichita Growth Plan shows this area as being appropriate for residential development. He added that it was located just one half mile outside the commercial core area. He said this is a more intensive use than what is permitted by right in this zoning which was the basis for staff's recommendation of denial. He said banks have applied for car sales; however, those are usually vehicles that they have financed. He said this is an unusual application in that there is another use at the site.

ELLISON asked where the business office was going to be located. He also asked for clarification regarding screening.

LONGNECKER said a 200 square foot office will be located on the southwest corner of the lot. He said solid screening will be required along the west per the UZC because of TF-3 zoning. He said the current site plan shows all vehicle display on the south side of the property, which abuts the restaurant. He added that the south side also has the "barriers" required on car lots.

TONY COPE, 2247 NORTH ARKANSAS said they are proposing a very low impact maybe 5-10 cars at the most, special order, internet based car dealership. He said they expect that the overall impact will be much less than what the liquor store creates for the neighborhood now. He explained that they will be leasing part of the space from the liquor store owner who will also be a part owner of the car dealership. He gave a brief history of the site stating that there were two different properties with two different addresses. He said years ago this was a car dealership and a liquor store but in 2007 the properties flip-flopped and the liquor store enlarged and took the north half of the property. He said they would like to re-activate the car dealership portion of the property with a 200 square foot office area with facilities such as sewer, water and internet shared with the liquor store. He said with a 10 space area to park cars they do not don't expect a lot of foot traffic and that is not what their business model is. He mentioned the DAB meeting and said items that came up included the barrier fence and that the trash container be enclosed, which he said would be the responsibility of the building owner. He mentioned that the two trucks in the picture were purchased the day before and they have since been removed from the property.

DAILEY commented that he drove by the location on the way to this meeting and one of the tow trucks is still there. He asked who owns that truck.

COPE replied that the owner of the building owns the tow truck.

DAILEY also asked who owns the cars parked on the north side of the building. He said there were three cars parked on the site with prices on the windshields. He also asked about the van and pickup truck parked.

COPE commented that the vehicles on the north side of the building were just purchased from another dealership and ultimately they would like to have those for sale; however, right now there is no one to sell them. He added that currently they do not have a car dealer's license because that is contingent upon having a site for car sales. He said he does not know who owns the van and pickup truck. He suggested asking the property owner. He said once they lease the property for the car dealership, they will comply with all requirements.

DAILEY referred to item #13 under conditions and commented that if any violations occur after the applicant takes charge they can be shut down.

COPE said they understand that without a doubt.

ELLISON commented that this seemed like an odd place to have car sales.

COPE said they are not looking for high impact sales. He said these car sales will be by appointment, special order and internet. He said the business office will be open by appointment only and that it will be a part-time car sales situation. He said the owner of the building is sponsoring them by offering them a lower than normal price to lease the property on a monthly basis.

ELLISON clarified that there would be no car repair at the site.

COPE said there will be no car repair and that the vehicles will be “ready to go” cars. He said they have a verbal agreement with a shop on Broadway for clean-up and detail, oil changes, etc. and delivery of the vehicles. He added that there will be no tire changing or car washing on site.

DIRECTOR MILLER asked the applicant if they thought they could use the liquor store’s sewer and water for the car sales office.

COPE commented that the bathroom is already there.

DIRECTOR MILLER clarified that the car sales office would not have a restroom or sewer. He advised the applicant that they needed to check with the water and sewer department to make sure a separate meter was not required for a separate business.

FOSTER asked for clarification on the west side of the site diagram which showed the grass area paved in the future. He asked if the applicant was comfortable if the application was limited to the 10 car location on the south. He said he is concerned that a future paved area might increase the number of vehicles on the lot.

COPE said the area used to be paved, but the current owner ripped out the black top and repaved the area and re-stuccoed the entire building. He said the reason they would like to pave that area is they would like to move the 10 cars from the south to that area on the north. He said that is assuming the business model survives and works. He said they don’t plan on having any more than 10 cars at the site regardless of where they are located. He said they would accept a stipulation that they cannot exceed 10 cars. He added that the owner of the building was not willing to pave that area, so they would have to come up with the funds themselves.

DENNIS asked what was the status of the car dealership license.

COPE said they have started the paperwork, but they need an address and City approval prior to submitting the application for the dealer’s license. He said the tax bond has been approved, but they have not purchased that either.

There was brief discussion concerning State requirements for a dealer's license.

MOTION: To deny the application subject to staff recommendation.

RICHARDSON moved, **DOOL** seconded the motion.

SUBSTITUTE MOTION: To approve the application subject to the alternate staff recommendation.

WARREN moved, **TODD** seconded the motion.

FOSTER said this was a tough one. He mentioned a 10 car limit and that it was just an expansion of the parking so he doesn't see a big concern. However, he said he was concerned about possible expansion to the west. He asked if substitute motion could include limiting the car sales to 10 vehicles.

The **SUBSTITUTE MOTION WAS AMENDED** to include a limit of 10 vehicles at the site.

DOOL said his concerns were based on staff's initial recommendation that the request was not consistent with the 21st Street Corridor development or future development plans for the area. He also mentioned that the owner of the property was not present so he couldn't support the request.

The **SUBSTITUTE MOTION** to approve the request failed (4-5). **DENNIS, DAILEY, DOOL, FOSTER** and **RICHARDSON** – No.

The **ORIGINAL MOTION** to deny the request carried (5-4). **ELLISON, NEUGENT, TODD** and **WARREN** – No.

NON-PUBLIC HEARING ITEMS

DIRECTOR MILLER mentioned the practice of staff putting written changes or amendments to Staff Report conditions and/or recommendations (handouts) on the table for Commission review the day of the Planning Commission Hearing. He said there have been comments made in the past and he understands the Commissioner's frustration. He asked is there some policy guidance the Commission would like to give staff such as that can only happen with minor changes; or, does the Commission want to address that issue on a case-by-case basis as they have been doing and defer anything they are not comfortable acting on.

CHAIR NEUGENT said her personal opinion is the way staff is handling that issue works because staff and the Commission are trying to get applications processed in a timely manner.

RICHARDSON said he disagreed with that and said the Commission needs at least a couple of days to review material if they take this job seriously. He said just walking in the door and being presented with a whole sheet of changes with everything else that is going on does not make any sense.

CHAIR NEUGENT responded that she does take this job seriously. She added that sometimes the Commission does not know all the issues until they have had a hearing and items are brought up that the Commission didn't necessarily know existed. She said that was just her opinion.

DENNIS said he agreed with both Commissioners Neugent and Richardson. He said he does not have a problem getting information the day of the hearing depending on the scope of the changes and said he thinks the Commission can deal with it on a case-by-case basis. He said he wants as much information as possible in order to make an informed decision.

DOOL said he looks at it two different ways. He said if staff is providing additional information presented or information that was overlooked that is one thing. He said if the applicant is providing additional information at the eleventh hour there should be some kind of a deadline.

DIRECTOR MILLER clarified that the consensus was to continue the process of providing additional information the day of the Planning Hearing and the Commission can decide on a case-by-case basis how they want to handle the case.

DIRECTOR MILLER commented that there has been ongoing discussion about the current policy of approving zoning changes subject to platting within one year. He said staff has been asked to create a new policy for Planning Commission review that would give commercial projects five years to plat, with an opportunity for an additional 5 year extension. He commented that the argument being presented is commercial property needs rooftops to be developed and sometimes that is not happening until three, four or sometimes five years down the road. He said when the property is platted, the developer loses the agricultural exemption and it costs more money for the developer. He said that policy change will be brought to the Commission for their consideration at a future date.

The Metropolitan Area Planning Commission adjourned at 3:38 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, W. Dale Miller, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2016.

Dale Miller, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)